

## **804 KAR 1:070. Product development and marketing samples.**

RELATES TO: KRS 243.130, 243.150, 243.170, 243.180, 243.340, 244.240, 244.590

STATUTORY AUTHORITY: KRS 241.060

NECESSITY, FUNCTION, AND CONFORMITY: KRS 241.060(1) authorizes the board to promulgate administrative regulations regarding matters over which the board has jurisdiction. KRS 244.240 and 244.590 prohibit manufacturers, distributors and wholesalers from making any gift or rendering any kind of service to any retail licensee which may tend to influence the retailer to purchase the manufacturers', distributors', or wholesalers' product to the exclusion of a product sold or offered for sale by other persons. This administrative regulation establishes requirements for alcoholic product development and marketing samples.

Section 1. (1) Product Samples to Retailers. Manufacturers, distributors, and wholesalers may provide free alcoholic beverage product samples to retailers under the following conditions:

(a) Samples shall be provided by an employee or agent of the manufacturer, distributor, or wholesaler. An employee or agent of a distiller, rectifier, winery, or wholesaler shall hold a Kentucky special agent's or solicitor's license;

(b) Samples shall be limited to alcoholic beverage products sold or produced by the manufacturer, distributor, or wholesaler;

(c) Drink samples may be provided to a retailer's agents and employees at the retailer's premises by the employee or agent in person; and

(d) Package samples, not exceeding the following quantity limits, may be shipped to the retailer's licensed premises through a common carrier holding a Kentucky transporter's license:

1. 384 ounces of malt beverages per year;
2. Nine (9) liters of wine per year; and
3. Nine (9) liters of distilled spirits per year.

(2) Any alcoholic beverage container used for drink or package samples shall be so marked by affixing across the label a sticker, not readily removable, stating, "Sample - Not for Sale, (manufacturer's, distributor's, or wholesaler's name)."

(3) Package samples received by a retailer shall not be resold by the retailer and shall be destroyed when the retailer completes its sampling of the product.

Section 2. Educational Sampling Events for Retailers. A manufacturer, distributor, or wholesaler may conduct an educational meeting and provide free samples of alcoholic beverages for the purpose of introducing new products or packaging under the following conditions:

(1) Educational meetings shall be held on licensed premises;

(2) Guests invited to attend educational meetings shall be limited to retail licensees, their employees, and agents;

(3) Only free hors d'oeuvres and drinks shall be served to invited guests;

(4) Free samples of alcoholic beverages served to invited guests shall be limited to products sold by the manufacturer, distributor, or wholesaler;

(5) Invited guests shall not take or keep any gift, favor, or alcoholic beverage packages from the premises where the educational meeting is conducted;

(6) A manufacturer, distributor, or wholesaler may conduct tours of its licensed premises as part of an educational meeting held there; and

(7) A manufacturer, distributor, or wholesaler conducting the event, and the licensee of the premise where the event is held, shall be jointly and severally liable for violations of the alcoholic beverage laws occurring during the event. (ABC 7:10; 1 Ky.R. 840; eff. 5-14-1975; TAm.

eff. 4-30-2013; 45 Ky.R. 1820, 2351; eff. 3-8-2019.)